

**BOROUGH OF RINGWOOD
PAY-TO-PLAY ORDINANCES**

AN ORDINANCE AMENDING AN
ORDINANCE ENTITLED “AN
ORDINANCE AMENDING CHAPTER II
– ADMINISTRATION OF THE REVISED
ORDINANCES OF THE BOROUGH OF
RINGWOOD” TO PROVIDE FOR A FAIR
AND OPEN PROCESS FOR THE
AWARD OF CERTAIN AGREEMENTS

BE IT ORDAINED by the Municipal Council of the Borough of Ringwood, County of Passaic, State of New Jersey that Chapter II - Administration - of the Revised Ordinances of the Borough of Ringwood is revised, as follows:

1. Section 1 - A - is amended to provide in its entirety as follows:

Except as established by subsection (d), the municipality or any of its purchasing agents or agencies, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, excepting those awarded pursuant to a fair and open process, from any professional business entity, if that entity has made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Ringwood municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Ringwood or Passaic County political party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement or has solicited such contribution of money or pledge of a contribution of money including in-kind contributions regarding the same.

2. New Section 2 - A: The Municipal Council reserves the right, in its discretion, to award agreements for the professional services mentioned above pursuant to a fair and open process whether or not a professional entity has made a reportable political contribution and whether or not the anticipated value of the agreement is in excess of \$17,500.00.

3. Severability and Effectiveness Clause: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance. Any ordinance, or part

thereof, inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

- 4. Effective Date:** This ordinance shall become effective 20 days after adoption.

Introduced: January 17, 2008

Adopted: January 31, 2008

WALTER J. DAVISON, JR. MAYOR

KELLEY A. ROHDE, RMC
BOROUGH CLERK

***AN ORDINANCE AMENDING CHAPTER 11
– ADMINISTRATION OF THE REVISED
ORDINANCES OF THE BOROUGH OF
RINGWOOD TO INCLUDE PAY TO PLAY
RULES AND REGULATIONS***

BE IT ORDAINED by the Mayor and Council of the Borough of Ringwood, County of Passaic, State of New Jersey, as follows:

IX. Preamble

WHEREAS, professional business entities are exempt from public bidding requirements; and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for award professional service contracts or other contracts or agreements which are not subject to public bidding; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of the tax payers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to P.L. 2005, c. 271, a municipality is authorized to adopt by ordinance measures limited the awarding of public contracts to business entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities.

NOW, THEREFORE, BE IT RESOLVED that the policy of the Borough of Ringwood will be to set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from the Borough of Ringwood.

X. Section 1. Prohibition on Awarding Public Contracts to Certain Contributors

- (a) Except as established by subsection (d), the municipality or any of its purchasing agents or agencies, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other consulting services, including those awarded pursuant to a “fair and open” process, from any professional business entity, if that entity has made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Ringwood municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or

officeholder, or to any Ringwood or Passaic County political party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement or has solicited such contribution of money or pledge of a contribution of money including in-kind contributions regarding the same.

- (b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof for the rendition of professional, banking or insurance coverage services or any other consulting services, including those awarded pursuant to the “fair and open” process, shall make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Ringwood municipal candidate or holder of public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Ringwood or Passaic County political party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties between the time of first communications between that business entity and the Borough regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement nor shall said professional business entity solicit for the contribution, or pledge of a contribution, including in-kind contributions regarding the same.
- (c) For purposes of this ordinance, a “professional business entity” seeking a public contract means an individual including the individual’s spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- (d) Any individual or professional meeting the definition of “professional business entity” under this section may annually contribute a maximum of \$300 each for any purpose to any candidate, for Mayor or Governing Body, or \$300 to the Borough party, or \$500 to the Passaic County party committee, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of “professional business entity” under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Ringwood candidates and officer holders with ultimate responsibility for the award of a contract, and all Ringwood or Passaic County political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.
- (e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
 - (1) The Ringwood Council and the Mayor of Ringwood, if the contract requires approval or appropriation from the Council.

- (2) The Mayor of Ringwood, if the contract requires approval of the Mayor, or if a public officers who is responsible for the award of a contract is appointed by the Mayor.

XI. Section 2. Contributions Made Prior to the Effective Date

No contributions of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

Section 3. Contribution Statement by Professional Business Entity

- (a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional business entity, the Borough or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of Section 1 of this Ordinance;
- (b) The professional business entity shall have a continuing duty to report any violations of this Act that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

Section 4. Return of Excess Contributions

A professional business entity or Borough candidate or office holder or municipal or county part committee or PAC referenced in this ordinance may cure a violation of Section 1 of this ordinance, if, within 30 days after the date on which the applicable ELEC Report is published, the professional business entity notified the Borough Council in writing and seeks and received reimbursement of a contribution from the Borough candidate or municipal or county political party or PAC referenced in this ordinance.

Section 5. Nature of the Violations

- (a) It shall be a breach of the terms of the Ringwood professional service agreement for a business entity to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of public office of Ringwood; (v) engage or employ a lobbyist or consultant with the

intent or understanding that such lobbyist or consultant would make or solicit any contribution, which is made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance.

Section 6. Penalties

- (b) Furthermore, any professional business entity who violates (a) ii-viii shall be disqualified from eligibility for future Ringwood contracts for a period of four calendar years from the date of the violation.

Section 7. Severability and Effectiveness Clause:

- (a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

And any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

Section 8. Effective Date:

This ordinance shall become effective 20 days after adoption.

Introduced: March 13, 2007

Adopted: March 27, 2007

JOANNE ATLAS, MAYOR

KELLEY A. ROHDE
MUNICIPAL CLERK

(Revised 4/10)

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability,

nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal court decisions.

The contractor shall submit to the public agency, after notifications of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

(Revised 4/10)

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EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C.127)

N.J.A.C. 17:27

CONSTRUCTION CONTRACTS

During the performance of this contract, the contactor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up-grading demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as

long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active “card carrying” members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor’s or subcontractor’s prior experience with a construction trade union regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

- (1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
- (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
- (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

- (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individual s have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
 - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (I) above, whenever vacancies occur. At the request of the Division, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
 - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a women is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.
- (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship

policies in any applicable collective bargaining agreement or union hiring hall arrangement, and where required by custom or agreement, it shall send journeymen and trainees to the union for a referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union. After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an initial project workforce report (Form AA 201) electronically provided to the public agency by the Division, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as it necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.